

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TOMMY RICE,	:	
Petitioner	:	No. 1:19-cv-00493
	:	
v.	:	(Judge Kane)
	:	
WARDEN, F.C.I. MCKEAN,	:	
Respondent	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the Court in the above-captioned case, which was closed on June 17, 2019 (Doc. No. 14), are: (1) the June 27, 2019 Report and Recommendation of Magistrate Judge Carlson (Doc. No. 18), recommending that this Court deny Petitioner's motion for a preliminary injunction (Doc. No. 15), and (2) Petitioner's objections to the Report and Recommendation (Doc. No. 21). Because the time for filing objections has ended, the Report and Recommendation is ripe for disposition.

In his Report and Recommendation (Doc. No. 18), Magistrate Judge Carlson found that a preliminary injunction was unwarranted because upon application of the four factors that determine whether a court should issue a preliminary injunction—including (1) Petitioner's likelihood of success on the merits; (2) whether Petitioner would be irreparably injured by denial of the motion; (3) harm to Respondent; and (4) whether granting the motion would be in the public interest—the balance of interests “tilts heavily against [Petitioner].” (Id. at 9.) Magistrate Judge Carlson further found that “[Petitioner]’s motion fares no better if it is construed as a motion to reconsider the denial of his habeas corpus petition.” (Id.)

Petitioner raises several objections to Magistrate Judge Carlson’s Report and Recommendation. (Doc. No. 21.) Specifically, Petitioner argues that: (1) Magistrate Judge

Carlson's Recommendation was based on clearly erroneous facts (*id.* at 2-6); (2) Magistrate Judge Carlson applied an incorrect legal standard (*id.* at 6-10); (3) the Court's previous merits determination does not weigh against granting a preliminary injunction (*id.* at 10-11);¹ (4) the other preliminary injunction factors do not weigh against Petitioner (*id.* at 11-12); (5) Magistrate Judge Carlson applied an incorrect legal standard to underlying issues presented by Petitioner's habeas petition (*id.* at 12-14); and (6) Magistrate Judge Carlson should not have conducted an alternative analysis of Petitioner's motion as if it were a request for reconsideration (*id.* at 14-15).

Having carefully reviewed Petitioner's objections to the Report and Recommendation, the Court finds that Magistrate Judge Carlson thoroughly resolved the substance of Petitioner's objections regarding the balancing of preliminary injunction factors in his Report and Recommendation by correctly addressing the relevant factors and conducting a thorough analysis of their application to the facts at hand. Further, the Court concludes that Petitioner's argument that Magistrate Judge Carlson based his Report and Recommendation on erroneous facts or incorrect legal standards is unsupported by the record. Thus, the Court will not write separately to address Petitioner's objections further. Accordingly, the Court will adopt the Report and Recommendation of Magistrate Judge Carlson over Petitioner's objections.

¹ This case arises from Petitioner's filing of a petition for a writ of habeas corpus, based on the results of a prison disciplinary hearing. (Doc. No. 1.) Magistrate Judge Carlson issued a Report and Recommendation on May 24, 2019 (Doc. No. 13), recommending that the petition be denied. Petitioner did not file objections to that Report and Recommendation, nor did Petitioner request an extension of time to file objections; instead, Petitioner filed the instant motion for a preliminary injunction (Doc. No. 15), which is also framed as a motion to stay/recall that Report and Recommendation. On June 17, 2019, the Court adopted Magistrate Judge Carlson's May 24, 2019 Report and Recommendation, denying Petitioner's petition for a writ of habeas corpus and closing the case. (Doc. No. 14.)

AND NOW, on this 18th day of December 2019, upon independent review of the record and applicable law, **IT IS ORDERED THAT**:

1. The Report and Recommendation of Magistrate Judge Carlson (Doc. No. 18) is **ADOPTED**;
2. Petitioner's objections to the Report and Recommendation (Doc. No. 21) are **OVERRULED**;
3. Petitioner's motion for a preliminary injunction (Doc. No. 15) is **DENIED**; and
4. The above-captioned case shall remain **CLOSED**.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania